

REMARKS

The Applicants have carefully considered the Office action dated September 16, 2009. By way of this response, the Applicants have amended claims 1, 9, and 18 and added new claims 137, 138, and 139. It is respectfully submitted that all claims are fully supported by the Applicants' originally filed application and that no new matter has been added. In addition, the Applicants have cancelled claims 2, 10, and 19 without prejudice to their further prosecution. The Applicants respectfully traverse the rejections and submit that all claims are in condition for allowance. Favorable reconsideration of this application is respectfully requested.

I. The Rejections under 35 USC § 101

In the Office action, claims 1-8 were rejected under 35 USC 101 as directed to non-statutory subject matter. By way of this response, the Applicants have amended claim 1 to recite generating, via a processor system, trigger information... As such, claim 1 is tied to a particular machine. Accordingly, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are directed to statutory subject matter in compliance with § 101 and respectfully request withdrawal of the § 101 rejections therefrom.

II. The Rejections under 35 USC § 102

In the Office action, claims 1-25 were rejected under 35 USC 102(e) as anticipated by Holtz et al. (US 2002/0053078).

A. Independent Claim 1

The Applicants respectfully submit that independent claim 1 is in condition for allowance. Independent claim 1 is directed to a method that involves, among other things, synchronizing a presentation of survey information with a presentation of a media composition based on trigger information, the survey information configured to

be presented on a handheld device while the media composition is presented on a separate device, the trigger information causing the emission of inaudible audio codes to be detected by the handheld device to present the survey information in synchronization with the presentation of the media composition. Holz et al. do not teach or suggest such a method.

Holz et al. describe presenting auxiliary information on an enhanced media client 120 and that the auxiliary information may include polls and surveys. *Holz et al.*, ¶'s 255 and 256. However, Holz et al. do not teach or suggest that the survey information is configured to be presented on a handheld device while a media composition is presented on a separate device and that trigger information causes the emission of inaudible audio codes to be detected by the handheld device to present the survey information in synchronization with the presentation of the media composition.

Accordingly, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are in condition for allowance.

B. Independent Claim 9

The Applicants respectfully submit that independent claim 9 is in condition for allowance. Independent claim 9 is directed to an apparatus that includes a processor system to, among other things, synchronize a presentation of survey information with a presentation of a media composition based on trigger information, the survey information configured to be presented on a handheld device while the media composition is presented on a separate device, the trigger information causing the emission of inaudible audio codes to be detected by the handheld device to present the survey information in synchronization with the presentation of the media composition. Holz et al. do not teach or suggest such an apparatus. Accordingly, the

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Applicants respectfully submit that independent claim 9 and all claims dependent thereon are in condition for allowance.

C. Independent Claim 18

The Applicants respectfully submit that independent claim 18 is in condition for allowance. Independent claim 18 is directed to a computer readable medium having instructions stored thereon that, when executed, cause a machine to, among other things, synchronize a presentation of survey information with a presentation of a media composition based on trigger information, the survey information configured to be presented on a handheld device while the media composition is presented on a separate device, the trigger information causing the emission of inaudible audio codes to be detected by the handheld device to present the survey information in synchronization with the presentation of the media composition. Holz et al. do not teach or suggest such a computer readable medium. Accordingly, the Applicants respectfully submit that independent claim 18 and all claims dependent thereon are in condition for allowance.

III. Conclusion

The Applicants respectfully request reconsideration of this application. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future

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should the need arise (e.g., if any such statement should become relevant by appearing in a rejection of any current or future claim).

The Commissioner is authorized to charge any deficiency in the submitted payment toward payment of any fee due for the filing of this paper to deposit account number 50-2455.

In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicants request that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

Respectfully submitted,

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